

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DION JOHNSON,  
Plaintiff,  
  
v.  
  
STARBUCKS CORPORATION  
Defendant

Case No.: 24-cv-00918-BJR

## ORDER STAYING LITIGATION PENDING DETERMINATION OF ARBITRABILITY

## I. INTRODUCTION

15 Plaintiff Dion Johnson (“Plaintiff”) brings this lawsuit against Defendant Starbucks  
16 Corporation (“Starbucks”) alleging that the company wrongfully terminated his employment in  
17 violation of the Family Medical Leave Act (“FMLA”), Title VII of the 1964 Civil Rights Act  
18 (“Title VII”), the Uniform Services Employment and Reemployment Rights Act (“USERRA”),  
19 and the Washington Paid Family Medical Leave Act (“WPFMLA”). Currently before the Court  
20 is Starbuck’s Motion to Compel Arbitration and Dismiss or Stay Litigation. Dkt. No. 13. Plaintiff  
21 opposes the motion. Dkt. No. 18. Having reviewed the motion, opposition, and reply thereto, the  
22 record of the case, and the relevant legal authority, the Court will grant the motion. The  
23 reasoning for the Court’s decision follows.

## 1 II. BACKGROUND

2 Plaintiff, a United States Army veteran, began working for Starbucks in June 2018 as a  
3 Senior Vendor Services Management Analyst. As a condition of his employment with Starbucks,  
4 Plaintiff signed a mutual arbitration agreement on May 30, 2019 (“the Mutual Arbitration  
5 Agreement”) that provides in relevant part:

6 Starbucks and I agree to use binding individual arbitration to resolve any “Covered  
7 Claims” that arise between me and Starbucks, its subsidiaries and related  
8 companies, and/or any current or former employee of Starbucks or a related  
9 company (collectively, “Starbucks”). “Covered Claims” are those brought under  
any statute, local ordinance, or common law relating to my employment, including  
those concerning any element of compensation, harassment, discrimination,  
retaliation, recovery of bonus or relocation benefits, leaves of absence,  
accommodations, or termination of employment.

10 **Except as provided herein, I understand and agree that arbitration is the only  
11 forum for resolving Covered Claims, and that both Starbucks and I waive the  
12 right to a trial before a judge or jury in federal or state court.** The Arbitrator  
shall have the authority to award the same damages and other relief that would have  
been available in court pursuant to applicable law.

13 Dkt. No. 14, Ex. E at 1 (bold in original). Plaintiff does not dispute that he signed the Mutual  
14 Arbitration Agreement as a condition of his employment.

15 Plaintiff alleges that almost immediately after starting his employment at Starbucks, his  
16 supervisor began harassing him because he is a veteran. The supervisor also allegedly expressed  
17 a preference for employees who do not have children. Plaintiff claims that he eventually  
18 submitted a complaint regarding his supervisor’s behavior to Starbucks’ human resources  
19 department, but rather than addressing the problem, the supervisor’s harassment and  
20 discriminatory behavior only worsened. In fact, Plaintiff alleges that he received his first-ever  
21 negative performance review within two weeks after filing the complaint, was eventually placed  
22 on a Performance Improvement Plan, and ultimately terminated from his employment. Plaintiff  
23

1 claims that his termination was in retaliation for complaining about his supervisor's behavior and  
 2 constitutes a willful violation of his rights under FMLA, Title VII, USERRA, and WPFLA.

### 3 III. DISCUSSION

#### 4 A. The Standard of Review

5 A court must determine two "gateway" issues in deciding whether to compel arbitration:  
 6 (1) whether there is an agreement to arbitrate between the parties; and (2) whether the agreement  
 7 covers the dispute. *Howsam v. Dean Witter Reynolds, Inc.*, 537 U.S. 79, 84 (2002); *see also, Cox*  
 8 *v. Ocean View Hotel Corp.*, 533 F.3d 1114, 1119 (9th Cir. 2008) (a court's involvement is  
 9 generally limited to determining two so-called "gateway" questions of arbitrability: "(1) whether  
 10 a valid agreement to arbitrate exists and, if it does, (2) whether the agreement encompasses the  
 11 dispute at issue"). In addition, the parties may "agree[] to limit judicial involvement even  
 12 further" by delegating adjudication of these gateway questions to the arbitrator, so long as they  
 13 do so "clearly and unmistakably". *Acosta v. Brave Quest Corporation*, 2024 WL 3206986, at \*3  
 14 (C.D. Cal. May 10, 2024) (quoting *AT&T Techs., Inc. v. Commc'n Workers of Am.*, 475 U.S.  
 15 643, 649 (1986)). When an agreement "clearly and unmistakably" delegates the threshold issue  
 16 of arbitrability to the arbitrator, a court must send the question to arbitration. *Rent-A-Center, W.*  
 17 *v. Jackson*, 561 U.S. 63, 80 (2010); *see also Henry Schein, Inc. v. Archer and White Sales, Inc.*,  
 18 586 U.S. 63, 65 (2019) ("When the parties' contract delegated the arbitrability question to an  
 19 arbitrator, the courts must respect the parties' decision as embodied in the contract.").

#### 20 B. The Parties' Arguments

21 Starbucks moves to compel Plaintiff to arbitrate his claims in accordance with the terms  
 22 of the Mutual Arbitration Agreement between the parties. Plaintiff opposes the motion, arguing  
 23 that the Mutual Arbitration Agreement is not enforceable as to his discrimination-based claims

1 because Washington law prohibits an employer from requiring an employee to arbitrate  
2 discrimination claims. RCW 49.44.085 states:

3 A provision of an employment contract or agreement is against public policy and  
4 is void and unenforceable if it requires an employee to waive the employee's right  
5 to publicly pursue a cause of action arising under chapter 49.60 RCW or federal  
6 antidiscrimination laws or to publicly file a complaint with the appropriate state or  
7 federal agencies, or if it requires an employee to resolve claims of discrimination  
8 in a dispute resolution process that is confidential.

9 Starbucks counters that RCW 49.44.085 is inapplicable to this case because the statute only  
10 prohibits *confidential* arbitration of discrimination-based claims, and the Mutual Arbitration  
11 Agreement does not require confidentiality. Alternatively, Starbucks argues that RCW 49.44.085  
12 is preempted by the Federal Arbitration Act.

### 13 C. The Parties Delegated the Issue of Arbitrability to the Arbitrator

14 Here, the parties "clearly and unmistakably" delegated to the arbitrator the issue of  
15 whether Plaintiff can be forced to arbitrate his discrimination-based claims. The Mutual  
16 Arbitration Agreement unequivocally provides:

17 Starbucks and I agree that the *Arbitrator-and not a court or agency-shall have*  
18 *exclusive authority to resolve any dispute* regarding the formation, interpretation,  
19 applicability, enforceability, or implementation of this Agreement, including any  
20 claim that all or part of this Agreement is void or voidable.

21 Dkt. No. 14, Ex. E at 1 (emphasis added).

22 It is important to note what Plaintiff does not challenge here. He does not dispute that he  
23 entered into the Mutual Arbitration Agreement as a condition of his employment. Nor does he  
24 contest the validity of the Agreement as a whole or challenge the enforceability of the delegation  
25 clause. He also does not claim that the Agreement is void as to all employment-related claims.  
26 Rather, he only argues that the Agreement is void as to his discrimination-based claims because  
27 RCW 49.44.085 allegedly excludes such claims from mandatory arbitration. This challenge to

1 arbitrability falls squarely within the Agreement's delegation clause and, as such, the arbitrator  
2 must resolve the issue. *Rent-A-Center*, 561 U.S. at 80. Thus, this matter must be stayed pending  
3 resolution of this issue by the arbitrator.

4 **IV. CONCLUSION**

5 For the foregoing reasons, the Court HEREBY GRANTS Starbucks' motion to stay this  
6 litigation pending the arbitrator's determination of arbitrability with respect to Plaintiff's  
7 discrimination-based claims. The parties shall file a status report with this Court within thirty  
8 (30) days of the arbitrator's decision.

9 Dated this 11th day of October 2024.

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Barbara Jacobs Rothstein  
U.S. District Court Judge